

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ARCHIE ONAVA,

Plaintiff,

v.

1:18-cv-00088-KG-LF

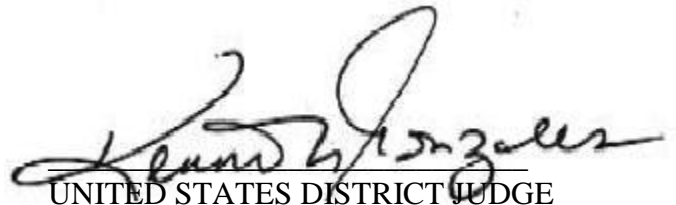
NANCY A. BERRYHILL,
Acting Commissioner of the Social
Security Administration,

Defendant.

ORDER

THIS MATTER comes before the Court on Plaintiff Archie Onava's Opposed Motion for Attorney Fees and Costs Pursuant to the Equal Access to Justice Act ("EAJA"), with Memorandum in Support, filed on November 26, 2018. Doc. 23. On December 7, 2018, the Commissioner filed a response, stating that she did not oppose the motion. Doc. 24. In the motion, Plaintiff requests \$5,708.40 for 28.4 hours of attorney work at a rate of \$201.00 per hour. Docs. 23 at 2, 23-1, 23-2. The Court will GRANT the motion.

The Court hereby awards Plaintiff \$5,708.40 in attorney fees under the EAJA, 28 U.S.C. § 2412. The EAJA fees will be paid to Plaintiff but delivered to Plaintiff's attorney. *See Astrue v. Ratliff*, 560 U.S. 586, 595–98 (2010); *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007); *Brown v. Astrue*, 271 F. App'x 741, 743–44 (10th Cir. 2008) (unpublished). It is further ordered that, if Plaintiff's counsel ultimately receives an award of attorney fees pursuant to 42 U.S.C. § 406(b), said attorney must refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



UNITED STATES DISTRICT JUDGE